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1993]

Giannella Lecture

SHOULD THE UNITED STATES HAVE A CULTURAL POLICY?†

JOHN FROHNMAYER*

In talking about his play *The Blacks*, Jean Genet said: “One evening an actor asked me to write a play for an all black cast. But exactly what is a black? First of all, what’s his color?” Similarly, in asking “Should the United States have a cultural policy?” we first have to ask “What is culture?” How, in a country as diverse as ours, can any one declaration, list of objectives or historical references tell us what we stand for? Yet, the question is worth considering, because the answer may help to tell us both who we are and where we are headed as a country. To not ask this question is to invite the kind of myopia that was experienced by the great tenor Enrico Carruso, who, when asked what he thought of his contemporary, Babe Ruth, replied that he did not know—he had never heard her sing.

Culture is, on the one hand, the very expression of our soul both individually and collectively, and on the other, the source of criticism, confrontation and discontent. When Louie Armstrong was asked to define jazz, his well-known response was: “Man, if you have to ask, you’ll never know.” So, consigning ourselves to those who, in the great trumpeter’s world will never know, let us ask the question anyway. What is culture? Consider these three views (which are merely three among hundreds).

First, culture, to the anthropologist, the folklorist and the archeologist, is part of the immutable web of what a society is and does. It is the tribal dance, the sacred ground, the strain of rice, the herbal remedy, the architecture, the folk wisdom, the flora and the fauna and the oral tradition. In short, it is the best manifestation of what a society has created, what a society values and what a society believes. These activities and objects come alive only in the context of the whole society.

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A second view is that culture can be defined as what is collected by a country's museums and libraries. It includes what prior generations have prized enough to preserve and honor, so by this definition, United States culture would include Greek vases, Klikitat masks and bronzes from the Ch'in dynasty. It is derivative and collective.

A third view contends that our culture resides in those commodities that we are able to buy and sell, and the greater the price, the more prized the item. Under this view, Van Gogh's *Dr. Gauchet*, which recently sold for \$82.5 million, would be highly prized, as would the tremendous economic horsepower of such people as Madonna and Michael Jackson. Notably, under this theory, one makes no distinction between popular and lasting or high and low culture. The marketplace alone defines what is good.

What we mean by "culture" can be continually redefined and expanded. When I was Chairman of the National Endowment for the Arts, we gave grants in a number of different categories such as dance, theater, opera, folk art and literature. But there never seemed to be enough categories to please everyone. I was assaulted by a group wanting a category for the martial arts and by another group, I suspect from Detroit, who wanted us to establish a category for automobiles as art.

It is hard enough to reconcile competing theories of culture, one of which demands that a society be taken as a whole, and the other that systematically separates objects from their origin and puts them into the stream of commerce. Consider, then, these additional questions that confound us in our attempt to "forge within the smithy of our souls, the uncreated conscience of our race" (apologies to James Joyce). Is culture necessarily a group term, and if so, can it apply to a civilization such as ours, which has been so careful to preserve individual rights? I speak of the First Amendment rights of free speech, assembly and religion, as well as those rights that protect us from the government, such as speedy trial and search and seizure. On the other side of the cultural ledger, what we "own" is protected from governmental taking, at least to the extent of due process of law. Can a cultural policy force an individual to respect or even tolerate particular music, dance or even the country's national anthem or flag? Can a culture be enforced like our environmental laws, which prevent us from cutting trees, polluting rivers or filling estuaries? (The answer is sometimes yes because we do protect the facades of his-

torically and architecturally significant structures). Generally, however, the law has not been comfortable in ordering that a cultural or artistic event happen. The old English case in which the court declined to require specific performance of an opera singer who had refused to fulfill her contract is still relevant. Individual artistry, the court held, could not be commanded.

We could ask, "does antiquity alone confer status?" Although the Fifth Amendment protects our property rights from arbitrary confiscation, does our culture suggest a moral right that is superior in some cases? I am thinking of repatriation of sacred objects, particularly the bones of Native Americans, excavated and preserved by many of our cultural institutions. I am thinking of pre-Colombian objects taken from Guatemala, Peru and Mexico as much as a century ago. We stole them fair and square. Should the descendants of their creators have some claim now? And further, with the widespread migration of people from one part of the globe to another, and the different political subdivisions we presently acknowledge from those that existed when the objects were created, can one country aspire to control, let alone reclaim, the treasures that were once on its soil?

Finally, can we seek consciously to shape a national identity or does it just happen? When we look at the bankruptcy of international communism, we see how poorly governments function at imposing an identity on people. This is apparent in the former Soviet Union, and even more tragically in the former Yugoslavia where old hatreds, religions and cultures have been reborn in the meanest of conflicts.

Given all of these obstacles, then, let us return to the initial question: "Should the United States have a cultural policy?" In spite of them all, my answer is not only a resounding YES, but the assertion that we *do* have a cultural policy, even though we may fail to recognize or honor it.

That cultural policy, at its irreducible minimum, is comprised of four concepts:

1. The First Amendment
2. Tolerance
3. Community
4. Education

"What?" you say, "Our culture is not Thomas Eakins, Elvis Presley, Aaron Copeland and the Liberty Bell?" I beg your indulgence. I am not defining culture in terms of individuals or ob-

jects, but rather by ideals that have been the basis of our success in the past and that are our hope for the future.

The First Amendment is an essential part of our cultural policy because it gives the artist, the thinker and the social commentator the right to speak freely without intellectual restraint of any kind. The worth and value of ideas, artistic expressions and cultural offerings is in their ability to capture our imagination, not just for today, but for succeeding generations. The great poems speak to us, often with very different messages over the years. We can hear with the ears of Mozart (even though we could not accomplish that magnificent simplicity ourselves). And a great work of visual art will continue to draw us into it and often will reveal its secrets slowly over time. When I was in college, Stanford had a program of loaning prints of the great works of art to students to enhance their rooms. One of my roommates, Scott, borrowed a Kandinsky that had many lines and geometric shapes. Our third roommate, Marshall, decided he would enhance the Kandinsky and every day, with his magic marker, added a line. Scott would come back and rave about the power of the Kandinsky and how he saw it differently each day. This went on until Marshall added a walking peanut, whereupon the jig was up. As far as I know, when Scott returned the Kandinsky, no one noticed anything was amiss.

But I digress. The point is that the First Amendment guarantees not only speech and press, but the right to use artistic expression for the glory of one's faith and to be protected from an imposed religious dogma that either commands or prevents the same. The First Amendment guarantees a freedom of spirit without which a culture simply cannot bloom. Moreover, we ought not to discount freedom of assembly as part of the bedrock of our cultural policy. As controversial as some performance artists have been over the last four years—Karen Finley, Holly Hughes and Tim Miller—imagine a society in which one simply was not allowed to attend their performances and you get some sense of the importance of the right to assemble. Likewise, the second portion of the assembly phrase includes the right to petition the government for a redress of grievances. Kurt Vonnegut has described the artist as a canary in the coal mine, and it is this right to criticize society that has been so blithely forgotten by the critics of the National Endowment for the Arts over the last four years. In the name of what they perceive as decency (a protection of the hearer), congressmen have forsaken both the First Amendment's

protection of unpopular ideas (a protection of the speaker) and the right to criticize what they are doing as a part of the government. Thus when Congressman Dick Armey (R-Texas) says that artists should be more respectful of Congress, he is simply out to lunch, both constitutionally and historically.

Tolerance is a fundamental part of America's cultural policy not because we have exercised it so beneficently—our record is really rather checkered—but because we recognize its necessity. Tolerance is the struggle willingly to hear those views with which we disagree and to encounter expressions we do not understand. It is the systematic protection of unpopular ideas that distinguishes our culture from others. And we know that in the end, the supply of human wisdom has been increased not by those who agreed but by those who differed.

Community occupies a central place in our cultural policy because with such tremendous diversity (some 170 different cultural or ethnic groups that we are privileged to call our fellow citizens) we must, as a nation, find some elemental similarities that bind us together. Culture, the expression of artists, gives a window into these differences and helps to build an overall community that understands—either inherently or in an articulated form—that we have more commonalities than differences. America's most successful national performance art forms, such as jazz, blues or rock and roll, overflow the boundaries of economics, race, age and geography. Likewise, in spite of the shabby history of the white man toward the Native American, we are justly proud of our Native American culture and claim it as part of our own. If you doubt me, pick up any home decorating or clothing magazine and you will find southwestern American Indian designs on virtually every page.

Finally, as a part of the irreducible minimum of a cultural policy, we embrace education. America is a country built upon ideas. Because suffrage is universal, all of our citizens must be educated in order to participate meaningfully in democracy. Ideas, and the communication of those ideas, are the stock and trade of the arts, and it is through a culture that those ideas are preserved by our historians, our singers and composers, our choreographers, our poets and our architects. Education can teach the hard, sometimes cruel, truth. Frank Lloyd Wright, never one to suffer fools gladly, listened while a student rhapsodized at length about his class project. Finally, the great master leaned

back and said: "Yes, we are both doing God's work. You in your way, and I in His."

Now, having persuaded you, I hope, that we *have* a cultural policy composed of fealty to the First Amendment, to tolerance, to building of community and to education, let me suggest to you one way in which this policy has produced demonstrable and positive results. The export of copyrightable items is our single most positive balance of trade item. Here I am talking about movies, television, sound recordings, books and software. Together these industries compose approximately 3.3% of our gross national product and bring in more dollars than the export of jet planes and aerospace, which are typically thought of as our top performers. Moreover, the copyright industry is growing at 6.9% per year, far above the lethargic performance of the rest of the economy.

The National Endowment for the Arts, which costs each of you sixty-eight cents per year for everything it does, has been the farm club for this industry for the last twenty-eight years, and for every dollar spent by the federal government, ten additional dollars have been generated to make these projects happen. Every Pulitzer prize-winning play since 1976 started in a not-for-profit theater, and names that you recognize as household words—Spike Lee, Geena Davis and Garrison Keillor—were lesser known when they got their starts in not-for-profit theaters. The young people who are playing instruments and singing and writing songs, odds are, learned their music in a not-for-profit institution. This minuscule support for culture is one of the great successes of our government, but just to prove that no good deed shall go unpunished, we are trying, both as a government and as a citizenry, to cripple it in every way possible.

Creativity will be the currency of the twenty-first century. We will use creativity to create resources just as we used the seemingly inexhaustible natural resources of our country in the nineteenth and twentieth centuries. Creativity (unlike genius) can be taught. We can learn to use all of our senses, to trust intuition as well as reason, to take risks and to evaluate ourselves in both our successes and failures. Yet we hear repeatedly in these days of economic stress that we cannot afford the arts that teach all of these things. We cannot afford to teach good writing so that historians can accurately record what has happened to our generation for the benefit of those who come after us. We do not teach appreciation of quality design and, as a result, our cars do not sell

(because they are ugly). Our public housing is ripped to shreds by those who are forced to live in an environment without beauty. We are told, as we were when members of the Bush Administration attempted to expand *Rust v. Sullivan* to the realm of the arts, that the government could dictate to us what art was valued and what books should be shelved. With this attempt to eliminate dissent would go the elimination of risk-taking, innovation, experimentation and discovery. In the pursuit of order, we have been willing to ghettoize our minds and shackle our spirits.

Our cultural policy should remind us that even at times of great stress we are given permission to think broadly, to speak boldly and to challenge the established order. So, I give you a charge. It is a charge to recognize and to assert your ownership of American cultural policy. Although you are learning the law and you will serve clients throughout your professional lives, the law is not just what some judge says it is. The law is a living, enabling and spiritual presence that empowers us to live our own lives in accordance with our ideals. Some of those ideals, like the First Amendment, are codified and are enforceable. Some, like tolerance, are beyond enforcement and come only at the invitation of good and honest and dedicated women and men who are willing to embrace it. But our cultural policy is one of ideals, and no matter how down and dirty the practice of law gets, you are the protectors of those ideals.

The First Amendment, as I found in my rather rude venture into public life, is often easier to ignore than to heed. But if we are soldiers of our minds, of our culture and of our freedom, we must protect each other's right to differ, we must educate all of our children, not just our biological ones, and we must revel in the certain knowledge that what our fellow citizens can create will be of lasting value to those who come after us. The celebrated American playwright, August Wilson, said: "Freedom is heavy. You have to put your shoulder to freedom and hope your back holds up."

And so I leave you with the words of the poet Sam Hazo:

I wish you what I wish
myself: hard questions
and the nights to answer them,
and grace of disappointment,
and the right to seem the fool
for justice. That's enough.
Cowards might ask for more.
Heroes have died for less.

